

Appl No. 09/445,278

Amdt. Dated Aug. 22, 03

Reply to the Office action of April 22, 2003

the artisan that "high through-put" will refer to a method applying e.g. a robotic device for cutting, root filling, cutting or pesticide spraying

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REMARKS

Claims 22, 23 and 25 – 31 are in the case upon entry of this amendment.

The applicant has requested a certified copy of European Priority Application EP 97810345.5 from the European Patent Office which will be filed with USPTO to comply with 35 U.S.C. 119(b) by a separate mailing substantially concurrent herewith.

Claims 22-23, 26 and 28-31 and dependent claims 24-25, and 27 were rejected under § 112, second paragraph, for indefiniteness. Applicant respectfully traverses this rejection.

The Examiner rejected claim 22 because the terms "short" and "root and shoot fragment" have not been defined. Amended claim 22 now refers to plant cuttings collected by

- (i) cutting a basal segment of a monocotyledonous mother plant or above ground nodal sections of a dicotyledonous mother plant, wherein these plant cuttings optionally comprise roots and are capable of directly regenerating into a whole and morphologically normal plant;
- (ii) directly transferring said plant cutting to a suitable anchorage material;

Basis for the amendment is found, for example, on page 6 of the specification (lines 24-26).

Claim 23 now refers to a method according to claim 22 in which the segment is of the minimal size which still retains its capability of regenerating into a whole plant. Basis for the amendment is found, for example, on page 6 of the specification in the last paragraph.

Claims 24 has been deleted as superfluous because the segments of claim 22 certainly contain meristematic cells which divide actively when regenerating into a whole plant.

The Examiner further rejected claim 26 (now amended) because the term "high through-put" was not defined in the specification. Applicant respectfully submits that it is generally understood in the art, that the expression "high through-put" refers to methods which comprise a standardization, miniaturization and/or automation step allowing a significant increase in throughput as compared to the method when performed manually. With regard to the invention it is immediately apparent to

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citations relates to subject matter of amended claim 22 (a method for verifying the resistance status of a field grown plant):

- p. 37 last 3 line relates to advantages and disadvantages of vegetative propagation;
- p. 46 3rd full paragraph relates to the optimal/maximal planting density of Citrus and avocado trees;
- p. 57 3rd paragraph relates to a Panama disease susceptible banana cultivar and desired virus resistance of Citrus rootstock;
- p. 62 generally relates to rootstock in citrus trees.

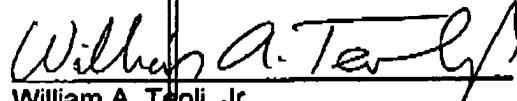
Samson does not teach screening for resistance of asexually propagated progeny as specified by the present claims.

As Samson does not disclose the subject matter of the claims it is the Applicant's view that the claims are novel and thus in compliance with 35 U.S.C § 102(b). Reconsideration and withdrawal of the rejection are solicited.

With respect to the rejection of claims 26 – 28 and 31 under § 103 as being unpatentable over Fehr in view of Benson, it is submitted that the invention not obvious to a person of ordinary skill in the art. More specifically, it is not at all apparent from the prior art to establish a rapid resistance assay based on asexually propagated plants taken from mother plants preselected in the field as specified by the claims. To the contrary, screening systems known to the artisan are typically based on seed grown plants. Reconsideration of the rejection and withdrawal of the same are requested.

Applicant respectfully requests that the instant claims as now amended are in condition for allowance and respectfully requests the Examiner to find them allowable. If any fee is due in connection with this response, the Assistant Commissioner is authorized to charge Deposit Account No. 50-1678 in the name of Syngenta Crop Protection, Inc. for the appropriate amount.

Respectfully submitted,



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- Page 6 of 6 -